

E-FILED 5/23/2008

NOT FOR CITATION

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

UNITED STATES *ex rel.* DONNA M.
MCLEAN and THE STATE OF CALIFORNIA
ex rel DONNA M. MCLEAN.

No. C05-01962 HRL

**ORDER DENYING DEFENDANTS'
MOTION FOR AN ORDER
SHORTENING TIME**

Plaintiffs.

V.

THE COUNTY OF SANTA CLARA, et al.,

[Re: Docket No. 165]

Defendants

18 Defendants move for an order shortening time on their motion to compel expert
19 disclosure (Docket # 168). They express concern that, under a normal 35-day calendar, their
20 motion will not be heard until after the June 16, 2008 expert discovery cutoff. No response has
21 been received from relator, and the time for filing one has passed.

Upon consideration of the papers filed, the motion for an order shortening time is denied. The court's Civil Local Rules permit motions to compel discovery to be filed up to seven court days after the pertinent cutoff date. *See* Civ. L.R. 26-2. Where, as here, a timely motion to compel has been filed, the existence of a discovery cutoff does not divest the court of the power to order the discovery in dispute to go forward, assuming the court concludes it is proper.

28 Accordingly, defendants' motion to compel will be set for hearing on **June 24, 2008**,

1 **10:00 a.m.** in Courtroom 2. Briefing shall proceed in accordance with a normal 35-day
2 calendar under the court's Civil Local Rules. Defendants' request to extend (or re-open) expert
3 discovery as may be appropriate will be addressed when the court deals with the merits of their
4 motion to compel.

SO ORDERED.

6 || Dated: May 23, 2008

HOWARD R. LLOYD
UNITED STATES MAGISTRATE JUDGE

United States District Court

For the Northern District of California

United States District Court

For the Northern District of California

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